

# **EXHIBIT 6**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

STATE OF MISSISSIPPI;  
STATE OF ALABAMA;  
STATE OF ARKANSAS; COMMONWEALTH OF  
KENTUCKY; STATE OF  
LOUISIANA; STATE OF MISSOURI;  
and STATE OF MONTANA,

*Plaintiffs,*

v.

XAVIER BECERRA, in his official  
capacity as Secretary of Health and  
Human Services; THE UNITED  
STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;  
CHIQUITA BROOKS-LASURE, in her  
official capacity as Administrator of the  
Centers for Medicare and Medicaid  
Services; THE CENTERS FOR  
MEDICARE AND MEDICAID  
SERVICES; THE UNITED STATES  
OF AMERICA,

*Defendants.*

No. 1:22-cv-113-HSO-RPM

**DECLARATION OF PORTIA PRESCOTT**

I, Portia Prescott, declare as follows:

1. The facts set forth in this declaration are based on my personal knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am the President of the Colorado-Montana-Wyoming State Conference of the NAACP (“Rocky Mountain NAACP”), and I am authorized to provide this declaration on behalf of the Rocky Mountain NAACP. I have been involved with a variety of NAACP branches for decades, such as the Denver, Colorado branch and the Beverly Hills, California branch, and I am a lifetime member of NAACP. In performing my duties as president, I interact

with Rocky Mountain NAACP members often, and I regularly work with NAACP units (branches, chapters, and committees) responsible for carrying out the mission of the organization.

3. The Rocky Mountain NAACP is a nonpartisan, nonprofit affiliate of the NAACP, based in the Colorado, Montana, and Wyoming area (“tri-state area”). We share the mission of the NAACP, which is to “ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination wherever it exists.”<sup>1</sup> We also share the vision of a “society in which all individuals have equal rights without discrimination based on race.” The Rocky Mountain NAACP works to implement this vision at the tri-state-level by advancing a variety of social issues, including issues related to health. We collect member dues from our members, which go towards covering Rocky Mountain NAACP costs, including the costs of our programming.
4. The Rocky Mountain NAACP’s Health Committee is led by our Health Chair, Dr. Sheila Davis, MD. Dr. Davis completed her medical training at the University of Pennsylvania and McGill University in Montréal and has over 20 years of experience in health equity work at the national and local level.
5. We currently have hundreds of members. As one of the fastest growing state conferences in the NAACP, we have members throughout the three states in the State Conference, Montana, Colorado, and Wyoming. Many of our members are Medicare beneficiaries and/or are eligible for Medicare. Our membership consists largely of Black and Hispanic individuals, but we aim to support all people of color and all members of underrepresented and vulnerable populations.

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<sup>1</sup> NAACP, *Our Mission*, <https://naacp.org/about/mission-vision> (last visited May 10, 2023); CO-MT-WY NAACP, *Vision*, <https://rmnaacp.org/> (last visited May 10, 2023).

6. The Rocky Mountain NAACP has significant interests in defending the Center for Medicare & Medicaid Services' ("CMS") anti-racism rule. The anti-racism rule would likely decrease racial health disparities by incentivizing Medicare providers to implement antiracism plans, which will likely lead to improved care for Black patients and other patients of color and advance our mission to advance equity and eliminate discrimination in the tri-state area. We believe the anti-racism rule is an important step to take, and likely helps our members, many of whom are direct beneficiaries of this rule.
7. First, the Rocky Mountain NAACP has an interest in preserving the anti-racism rule because eliminating racial health disparities is an integral part of our mission to advance equity and eliminate discrimination. The anti-racism rule works to decrease these disparities by incentivizing Medicare providers to create and implement anti-racism plans. The adoption of anti-racism plans by medical providers would likely benefit Rocky Mountain NAACP members, including members in Montana.
8. One of our top priorities is addressing health disparities with respect to Black maternal mortality. Pregnancy-related mortality rates among Black women are over three times higher compared to the rate of white women, and Black women have disproportionately higher shares of low birthweight births, preterm births, or births for which they received no prenatal care or late prenatal care compared to white women.<sup>2</sup> Concerningly, there has not only been an increase in maternal death rates during the COVID-19 pandemic, but also an increase in the racial disparities experienced by Black women.<sup>3</sup>

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<sup>2</sup> James W. Collins, et al., *Very Low Birthweight in African American Infants: The Role of Maternal Exposure to Interpersonal Racial Discrimination* (2004), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1448603/> (last visited May 10, 2023).

<sup>3</sup> Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2021*, (2023) <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2021/maternal-mortality-rates-2021.pdf> (last visited May 10, 2023).

9. April is Black Maternal Health Month. Examples of our April 2023 programming to spread awareness and visibility of this issue include a webinar regarding Black maternal health, entitled *Black Mamas Matter - Our Bodies Belong to Us: Restoring Black Autonomy and Joy*, and an event featuring the streaming the documentary film, *Aftershock: For Black Women, Pregnancy Can Be Deadly*, followed by a facilitated discussion between a panel and the audience. These events are open to our members and members of our co-sponsors, including Sister-to-Sister: International Network of Professional African American Women, Inc. and the Center for African-American Health, as well as to the general public. These events advance our mission and help expose the intersections between different issues of concern, such as the connections between racial health disparities and environmental justice<sup>4</sup> and the links between Black maternal health and other facets of healthcare.
10. An example of the Rocky Mountain NAACP's past health-related programming is our COVID-19 programming, where we held vaccine clinics that reached out to marginalized communities such as Black individuals and other individuals of color, as well as LGBTQ individuals.

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<sup>4</sup> For example, climate change has contributed to rising temperatures and other adverse climate-related events, increasing air pollution, which is associated with an increased risk of dying from cancer and increasing the rates of heat related illnesses. Am. Ass'n for Cancer Rsch., *Air Pollution May be Associated with Many Kinds of Cancer*, <https://www.aacr.org/patients-caregivers/progress-against-cancer/air-pollution-associated-cancer/> (last visited May, 2023). These adverse health outcomes have a disproportionate negative impact on people of color: from 2005 to 2015, the rates of emergency room visits for heat-related illnesses increased by 67% for Black individuals and 63% for Hispanic individuals, compared to 27% for white individuals. KFF, *Extreme Heat and Racial Health Equity* (Sept. 8, 2021), <https://www.kff.org/policy-watch/extreme-heat-racial-health-equity/>.

11. An example of future health-related programming that we are currently planning is our programming addressing the Fentanyl crisis.<sup>5</sup> The Fentanyl crisis is adversely affecting the tri-state area. For example, from 2016 to 2020 the number of Fentanyl-related overdose deaths is estimated to have increased by 167% in Montana,<sup>6</sup> and we have seen an increase in drug overdose related deaths. Our goal is to help our members, as well as other community members in the tri-state area, become more knowledgeable about the prevalence and danger of Fentanyl abuse, as well as solutions to address the Fentanyl crisis. The Rocky Mountain NAACP is seeking to partner with organizations that will train healthcare providers to conduct medication-assisted treatments. We plan to encourage people in our network, such as medical providers of color and other culturally competent providers, to receive training on medication-assisted treatments for Fentanyl abuse. We also plan to partner with state health departments, associations of medical providers, and nonprofit organizations that work with diverse populations to increase the reach of our community education and training.
12. The anti-racism rule incentivizes healthcare providers to create and implement anti-racism plans, which will likely reduce racial health disparities because providers who choose to implement anti-racism plans will become more culturally competent and improve their practice as a whole.

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<sup>5</sup> Fentanyl is a synthetic opioid analgesic that is sometimes sold via illicit drug markets and mixed with other drugs for its euphoric effects; Fentanyl related overdoses can oftentimes be reversed with Naloxone. MTN News, *28 Fentanyl Overdoses, 8 Deaths Reported in Montana Over 10 Day Period*, 8KPAX, <https://www.kpax.com/news/montana-news/28-fentanyl-overdoses-8-deaths-reported-in-montana-over-10-day-period> (last updated Jan. 25, 2023).

<sup>6</sup> Mont. Dep't of Just. Div. of Crim. Inv., *Montana Fentanyl Trends 2021* 3 (2021), [https://leg.mt.gov/content/publications/fiscal/2023-Interim/IBC-D/MT\\_Fentanyl\\_Trends\\_2021.pdf](https://leg.mt.gov/content/publications/fiscal/2023-Interim/IBC-D/MT_Fentanyl_Trends_2021.pdf).

13. If this rule is rescinded, then Medicare providers will have less incentive to implement anti-racism plans, which would be counter-productive to our work to reduce racial health disparities.
14. Plaintiffs' challenge to the anti-racism rule is based on the premise that health equity and anti-racism approaches to healthcare are "bad medicine" and "encourage[] doctors to elevate faddish theories about race above patient care." ECF No. 28 at 3. Our health chair, an MD and public health expert, disagrees strongly with this characterization. She has stated that public health literature and evidence supports the importance of health equity measures for improving racial health disparities and improving health outcomes for all. Moreover, the idea that anti-racism measures are "bad medicine" is antithetical to our mission as an organization and our history.
15. Second, the Rocky Mountain NAACP has an interest in defending the anti-racism rule because our members will likely benefit from the anti-racism rule's intended effects. Our members raise complaints to the Rocky Mountain NAACP leadership through our legal redress form, phone calls directly to Executive Committee members, and referrals from other Chapter presidents. Some members have reported that they have been mistreated in the healthcare system.
16. We have seen firsthand how problematic stereotypes based on race are still very prevalent in the tri-state area. Some members have told me that they have been treated negatively based on stereotypes, including in the healthcare setting. For example, members told me about a NAACP member, who was Black, who died at home after he was denied care at the hospital emergency room at least three consecutive times because medical staff repeatedly told him that he did not look sick enough. I have also heard accounts from other

members who were turned away from the hospital during the COVID-19 pandemic because they were told they did not look sick enough.

17. Rocky Mountain NAACP members have also told me that they have faced problems with receiving care during pregnancy. At least two members had complications during pregnancy and were in imminent risk of harm—their families had to advocate in the emergency room for them to receive care to treat them for their pregnancy complications. Some members have told me that they felt like the medical providers were treating them differently based on racial stereotypes, assuming that they did not need help in recovery from childbirth and in developing lactation plans, and not advising them adequately. Some Rocky Mountain NAACP members have reported, and I have personally perceived, a variety of other negative racial stereotypes in healthcare settings, such as the myth that Black people do not feel as much pain, leading to less thorough pain management by healthcare professionals. These racial stereotypes are not limited to hospitals and are pervasive within healthcare settings, including clinics that treat Medicare patients.

18. Furthermore, our Health Chair, Dr. Davis, has worked to document the experiences of Black women in the healthcare setting after she saw gaps in how healthcare providers were collecting medical data from Black women patients. This led her to engage with several focus groups consisting of Black women who had been patients or were current patients and compiled accounts of their experiences. She said that many of the patients reported mistreatment by healthcare professionals. For example, some of the Black women in the focus groups reported that they had been seen by medical students or assistants, while observing that white women in the same facility were seen by doctors. In another example, a Black woman who was at a high risk for pregnancy complications went to the emergency



room but was told to return home while she was in labor, where she then was forced to give birth without medical assistance. After she experienced complications during childbirth and post-partum bleeding, she returned to the hospital, but still had to wait hours to be seen by a physician.

19. These examples are just some of the many stories we hear from our members and other people of color in the tri-state area about substandard healthcare they receive. This rule is an important step to improving the quality of health care our members receive. Many of our members will likely receive better care and have improved health outcomes if more providers have taken steps to identify and address discrimination and health disparities in their practices.
20. Our health chair has years of experience providing trainings to health care providers about implicit bias and anti-racism practices. She has found that after the training, healthcare providers have reported a better understanding of how to provide culturally responsive care and are able to implement lessons learned to provide better care to their patients, especially their patients from marginalized communities.
21. Additionally, our members benefit as a whole from an improved healthcare system. Anti-racism plans can include efforts beyond facilitating anti-racism training for medical staff. For example, collecting more reliable and more nuanced demographic health data can also improve health outcomes for people of color. Our health chair has engaged with Black community members who would have benefited from better data collection; our members and broader community of color will likely benefit from these and other anti-racism measures that Medicare providers implement to reduce racial health disparities.

22. Third, the Rocky Mountain NAACP has an interest in defending this anti-racism rule because we believe that government has a role in improving health outcomes and increasing health equity in the healthcare system. Our members and other Black people, Indigenous people, and People of Color (BIPOC) in the tri-state area have benefited from government intervention previously, such as with the Affordable Care Act, which helped many people across racial and ethnic groups gain more health coverage. However, the Affordable Care Act, while a step forward, does not fully address the racial health disparities in the nation and the tri-state area, especially given the exacerbation of health disparities due to the COVID-19 pandemic.

23. The anti-racism rule is an example of an important step that the government can take to address racial health disparities and encourage medical providers to continue to improve their healthcare practices.

24. Overall, the Rocky Mountain NAACP believes that the anti-racism rule should not be rescinded. Otherwise, we will likely be taking a step back in advancing health equity for Rocky Mountain NAACP members. This rule is important because we still see racial disparities in life expectancy and throughout the lives of patients of color. We are committed to antiracism efforts and believe this rule will reduce the terrible costs and negative outcomes experienced by some of our members and many people of color in the tri-state area.

I solemnly swear and affirm under the penalties of perjury that the foregoing is true and correct based on my personal knowledge.

/s/ Portia Prescott  
Declarant's Signature

5/11/2023  
Date

Portia Prescott  
Declarant's Printed Name